

FEB 1 2000  
JUDICIARY

HOUSE FILE 2123  
BY MASCHER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the disposition of personal property in the  
2 lawful possession of a local law enforcement agency.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HF 2123

1 Section 1. Section 80.39, Code 1999, is amended to read as  
2 follows:

3 80.39 DISPOSITION OF PERSONAL PROPERTY.

4 1. Personal property, except for motor vehicles subject to  
5 sale pursuant to section 321.89, and seizable property subject  
6 to disposition pursuant to chapter 809 or 809A, which personal  
7 property is found or seized by, turned in to, or otherwise  
8 lawfully comes into the possession of the department of public  
9 safety or a local law enforcement agency and which the  
10 department or agency does not own, shall be disposed of  
11 pursuant to this section. If by examining the property the  
12 owner or lawful custodian of the property is known or can be  
13 readily ascertained, the department or agency shall notify the  
14 owner or custodian by certified mail directed to the owner's  
15 or custodian's last known address, as to the location of the  
16 property. If the identity or address of the owner cannot be  
17 determined, notice by one publication in a newspaper of  
18 general circulation in the area where the property was found  
19 is sufficient notice. A published notice may contain multiple  
20 items.

21 2. The department or agency may return the property to a  
22 person if that person or the person's representative does all  
23 of the following:

- 24 a. Appears at the location where the property is located.  
25 b. Provides proper identification.  
26 c. Demonstrates ownership or lawful possession of the  
27 property to the satisfaction of the department or agency.

28 3. After ninety days following the mailing or publication  
29 of the notice required by this section, or if the owner or  
30 lawful custodian of the property is unknown or cannot be  
31 readily determined, or the department or agency has not turned  
32 the property over to the owner, the lawful custodian, or the  
33 owner's or custodian's representative, the department or  
34 agency may dispose of the property in any lawful way,  
35 including but not limited to the following:

1 a. Selling the property at public auction with the  
2 proceeds, less department or agency expenses, going to the  
3 general fund of the state if sold by the department, the rural  
4 services fund if sold by a county agency, and the general fund  
5 of a city if sold by a city agency, however, the department or  
6 agency shall be reimbursed from the proceeds for the  
7 reasonable expenses incurred in selling the property at the  
8 auction.

9 b. Retaining the property for the department's or agency's  
10 own use.

11 c. Giving the property to another agency of government.

12 d. Giving the property to an appropriate charitable  
13 organization.

14 e. Destroying the property.

15 4. Except when a person appears in person or through a  
16 representative within the time periods set by this section,  
17 and satisfies the department or agency that the person is the  
18 owner or lawful custodian of the property, disposition of the  
19 property shall be at the discretion of the department or  
20 agency. The department or agency shall maintain the receipt  
21 and disposition records for all property processed under this  
22 section. Good faith compliance with this section is a defense  
23 to any claim or action at law or in equity regarding the  
24 disposition of the property.

25 Sec. 2. Section 331.652, Code 1999, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 8. The sheriff may dispose of personal  
28 property under section 80.39.

29 Sec. 3. Section 364.22, Code 1999, is amended by adding  
30 the following new subsection:

31 NEW SUBSECTION. 14. A police department may dispose of  
32 personal property under section 80.39.

33 EXPLANATION

34 This bill relates to the disposition of certain personal  
35 property which has been found by, seized by, turned in to, or

1 otherwise comes into the lawful possession of a local law  
2 enforcement agency. The bill provides that a local law  
3 enforcement agency may use the same procedures to dispose of  
4 personal property as the department of public safety.

5 The bill provides that an agency may dispose of personal  
6 property 90 days after mailing notice to the last known  
7 address of the owner or publishing notice that the agency is  
8 in possession of the personal property. The bill provides  
9 that an agency may dispose of the property by selling the  
10 property at auction, retaining the property for the agency's  
11 own use, giving the property to another agency, giving the  
12 property to charity, or destroying the property.

13 The bill provides that if the local law enforcement agency  
14 sells the property, the proceeds from the sale after  
15 reimbursement of expenses shall be deposited in the rural  
16 services fund if the selling agency is a county agency, or  
17 deposited in a city's general fund if the selling agency is a  
18 city agency.

19 The bill is not applicable to abandoned motor vehicles or  
20 seized property subject to disposition under Code chapter 809  
21 or 809A.

22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35